

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION**

SHANNON LAPORTE, et al.,

Plaintiffs,

v.

ROBERT GORDON, DR.
SANDIP SHAH, DR. SARAH
LYON-CALLO, MARY
KLEYN, AND MARY SEETERLIN,
in their official capacities,

Defendants.

Case No. 20-10089

Hon. Thomas L. Ludington
Magistrate Patricia T. Morris

**ORDER GRANTING PLAINTIFFS' EMERGENCY MOTION TO VACATE AND
VACATING EXPEDITED BRIEFING SCHEDULE, SCHEUDLING DEFENDANTS'
MOTION TO DISMISS, AND PLAINTIFFS' MOTION TO EXCLUDE EXHIBITS**

On January 14, 2020, Plaintiff, Shannon LaPorte on behalf of herself and as parent-guardian of her son, B.O., filed suit against Robert Gordon, Dr. Sandip Shah, Dr. Sarah Lyon-Callo, Mary Kleyn, and Mary Seeterlin, all in their official capacities. ECF No. 1. Plaintiffs alleged that MCL § 333.5431(2) violates the Fourth and Fourteenth Amendments (Counts I and III), the initial extraction required under MCL § 333.5431(2) violates the Fourth Amendment (Count II), and the testing of the blood spots violates the Fourteenth Amendment (Count IV). *Id.*

The same day, Plaintiffs filed a motion for preliminary injunction and the parties submitted a stipulated proposed order providing an expedited briefing schedule and seeking a decision on the motion for preliminary injunction by April 1, 2020. ECF Nos. 3, 8. Plaintiff LaPorte is pregnant with her child, B.O., who is due in late April or early May 2020. ECF No. 3 at PageID.34. Also, on March 13, 2020, Defendants filed a motion to dismiss and the very same day Plaintiffs filed a Motion to Exclude Exhibits Pursuant to Rule 12(d). ECF No. 23; 24.

In an effort to address Plaintiffs' request for a prompt resolution of the case, this Court entered an order on March 16, 2020 for significantly expedited briefing on the motion to dismiss and the motion to exclude. ECF No. 25. Counsel are very familiar with the law as briefed in support of and opposed to the motion to dismiss and the later arguments to the Sixth Circuit in *Kanuszewski v. Michigan Department of Health and Human Services*, 18-10472, a companion case. Indeed, Plaintiffs have already once again briefed the law in support of Plaintiffs' Motion for Preliminary Injunction (likelihood of success on the merits) and reply in *LaPorte v. Gordon*, 20-10089. As such, it did not appear that prompt response deadlines would require a "herculean response."

However, the disruption to ordinary life by COVID-19 has become widespread, as outlined in Plaintiffs' emergency motion to set aside. ECF No. 26. Michigan Governor Gretchen Whitmer has signed executive orders limiting public gatherings and closing dine-in restaurants and other places of public accommodation. *See* Executive Order No. 2020-05; Executive Order No. 2020-09. Chief Judge Hood has issued an administrative order limiting courthouse matters. 20-AO-021. Accordingly, this Court's previous order directing expedited briefing for Defendants' motion to dismiss and Plaintiffs' motion to exclude will be vacated and the motion determined in the ordinary course of business.

Accordingly, is it **ORDERED** that Plaintiffs' Emergency Motion to Vacate, ECF No. 26, is **GRANTED** and this Court's previous order, ECF No. 25, is **VACATED**.

It is further **ORDERED** that response and reply deadlines for Defendants' Motion to Dismiss, ECF No. 23, and Plaintiffs' Motion to Exclude Exhibits, ECF No. 24, shall be observed in accordance with Local Rule 7.1(e).

It is further **ORDERED** that Defendants' Motion to Dismiss, ECF No. 23, and Plaintiffs' Motion to Exclude Exhibits, ECF No. 24, are scheduled for hearing on **May 20, 2020 at 4:00 pm.**

Dated: March 17, 2020

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge